

THE CARE AND FEEDING OF THE BROADCASTER'S PUBLIC INSPECTION FILE

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What We'll Cover Today

- ◉ Why the File is Important
- ◉ Hot Topics on the Public File
- ◉ What goes in the File
- ◉ What are the most common issues that lead to fines
- ◉ Details of some of the obligations

The New Importance of the Public Inspection File

- The single largest cause of license renewal fines
- Problems discovered during FCC random inspections have led to fines
- State Association ABIP inspection prevents random inspections, but not inspections based on complaints
- More citizen's groups targeting public files

Blame it on the Online Public File

- Why are citizen's groups announcing the targeting of public files?
- The Online Public File debate reminded the public that the file exists
- Lots of coverage in the popular press
- Groups can now target the TV Public file for inspection – from the comfort of their own home

A Few Words About the Online Public File

- TV Stations should have already figured it out
- In many ways, it makes compliance easier, as the FCC uploads all of the FCC applications, the coverage map and the Public and Broadcasting manual
- Obviously, it's a pain during political season – especially in “battleground states”

More About the Online Public File

- Already, all TV stations (including Class A TVs) should have uploaded at least a Quarterly Issues Programs List in October
- Many will have uploaded an EEO Annual Public Inspection File Report – and many more will be doing so for the states with a December 1 deadline
- Top 50 market – Big 4 Network stations should have been uploading political material since August 2
- February 2 deadline for all stations for uploading all old public file material that is still relevant – except small market political
- July 1, 2014 political file obligations kick in for other TV stations

Thinking About the Online Public File

- Must have a link to your station's online public file on your website, and name of person at the station to assist people who want to access it
- FCC uploads new applications automatically – but does not remove old applications – it's a station obligation that you ought to consider (more on this later)
- Still need paper file for letters from the public
- Need back-up access for political information
- Radio needs to watch what TV is doing as the FCC is likely going to extend this obligation to you in the next few years

But Don't Forget About Access to the Paper File

- Maintain a public file at your main studio, available for public inspection during “normal business hours” – for TV stations it may soon be a File limited to letters from the public
- Can be kept on computer – if terminal available for anyone who visits
- Must make the File available to anyone who visits – no appointment necessary, no intimidation allowed
- Limited right to ask for identification
- Must make copies available within 7 days—reasonable charges for copying allowed

Even Without the Online File, The Public Does Not Need to Visit

- If your main studio is not in the city limits of your community of license, if requested by the public by phone or mail, you must make available copies of file documents – except political file
- Station pays the postage
- Station must help caller locate what he or she is looking for
- Caller pays copying, except for the Public and Broadcasting
- Obligation only to people in station's geographic service area – “Grade B” for TV (unclear what this means in a digital world), 1 mv/m for FM (except .7 mv/m for Class B1 and .5 for Class B stations), and .5 mv/m for all AM stations

Think About Compliance

- Make sure that employees know where the file is, and that the public can access it
- Make sure that building security knows that people can insist on seeing the file, and must be allowed access
- Consider having written instructions for temporary or substitute employees
- Think about file back-up and security
- For TV, think about changing access codes to online public file if employees change

How Long Do You Keep the Documents

- Retention periods vary
- Some kept for entire renewal term – until the license renewal is granted giving you authority to operate in the next license term
 - In some cases this can last into subsequent renewal terms (e.g. hold-ups of renewal for indecency complaints or other renewal challenge – but must keep the documents until a renewal is granted)
- FCC applications kept until grant is “final” – sometimes a challenge to compute when that is – and the online file for TV does not do it for you

So Just What Goes in the Public File?

- FCC Materials (for TV, these should be automatically uploaded):
 - FCC license
 - Contour map
 - Pending FCC applications until they are final, and related materials
 - FCC Ownership Report – kept until next one is filed
 - Form 398 Children's Television Reports – kept until next renewal is granted

Other Documents Related to the FCC Documents

- Contracts and Agreements that need to be identified on Ownership Reports – kept as long as they are in effect
 - Most are filed in 30 days at the FCC, but not electronically, so stations need to upload
 - Can only keep a list and provide the documents for inspection within 7 days, if requested
- TV – quarterly compiled documents that show compliance with Children’s Television Commercial Limits – kept for full renewal term
- FCC Investigation or Complaints about which the FCC notifies you - and responses to the complaints – keep until the FCC says that you can get rid of them

Quarterly Issues Programs Lists

- Biggest source of FCC fines in renewals
- Fines seem to be about \$10,000 per station if you miss more than 3 or 4 during a license renewal term
- The only real way to show the public interest programming that your station has broadcast
- Placed in the File on or before the 10th of January, April, July, and October
- FCC considering replacement of these lists for new form

What's in the Quarterly Issues Programs Lists?

- The important issues facing your community in the prior quarter that you addressed in your programming
- The programs that addressed these issues
 - Title of program
 - Date and time it was broadcast
 - Duration of program or segment dealing with the issue
 - Brief description of the program
- Kept for the entire renewal period

EEO Annual Public Inspection File Reports

- Placed in the file on the anniversary date of the renewal filing for stations in your state
- Place in file once each year
- Includes the following:
 - List of full-time jobs filled in prior year
 - Recruitment source of the person hired for each job
 - Recruitment sources used to fill these jobs
 - Contact person at each recruitment source
 - How many interviewees you had from each of the recruitment sources used
 - Supplemental efforts (non-vacancy specific activities to educate the public about broadcasting employment opportunities) – the “menu options”
- EEO Public File Reports kept for entire renewal term

Political File

- ⊙ Requests by candidates to buy time
- ⊙ Disposition of the request
- ⊙ When time is sold:
 - Schedule – class of time and daypart in which the spots are to run
 - Price
 - Actual times that spots ran
- ⊙ Other “uses” by a candidate
- ⊙ Kept for two years

Other “Political” Requirements

- For third-party ads dealing with Federal candidates or Federal issues, same information as for a candidate ad
- For state issue ads, identification of the issue, and the name of the sponsor of the ad, and the principal officers or directors of the sponsor

Miscellaneous Other Public File Materials

- The Public and Broadcasting manual published by the FCC
- Radio and TV LMAs and JSAs – financial terms can be excluded
- Certification of completion of the Pre-filing and Post-filing public notices of license renewal filing
- Must carry or retransmission consent elections – kept for three year election cycle
- Class A continuing eligibility documentation – for all Class A TV stations
- Citizen's Agreements – rarely relevant today – only for commercial stations

Letters from the Public

- Only applies to commercial stations
- Kept for three years
- Letters from the public “regarding the operation of the station”
 - Can exclude obscene or other offensive letters
 - Exclude letters where writer asks for privacy
- Emails addressed to management or general email publicized by the station
- Not part of the Online Public File – so TV stations still need to let the public in to view these communications

Noncommercial stations

- Generally the same obligations as commercial stations
- Except:
 - Don't need letters from the public and citizen's agreements
 - Need to keep donor lists where donors contribute to specific program – for 2 years from the date the supported program aired

What Not to Include in Your Public File

- Internal correspondence with station employees and management
- Letters from your lawyer sending material to go into the file or commenting on an FCC application or complaint
- Backing data for political file or EEO public file report – all of that is produced only if requested by the FCC

Summary

- ⦿ Keep the file up to date
- ⦿ Keep it orderly
- ⦿ Make sure that it is accessible
- ⦿ Watch what you put into the file – don't add extraneous stuff
- ⦿ Consider a back-up for the paper file
- ⦿ Check it regularly to make sure that everything is still there

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